

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MITCHELL ENGINEERING,

No. C 08-04022 SI

Plaintiff,

**ORDER GRANTING JMOL TO  
DEFENDANT IRONS ON THE  
PROCEDURAL DUE PROCESS CLAIM**

v.

CITY AND COUNTY OF SAN FRANCISCO,

Defendant.

In defendants' Motion for Judgment as a Matter of Law, defendant Irons renews his argument that he is entitled to qualified immunity on plaintiff's procedural due process claim. The defense of qualified immunity protects "government officials . . . from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). The Court must evaluate whether, given the "specific context of the case," it would have been clear to a reasonable PUC employee that his conduct was unlawful. *Saucier v. Katz*, 533 U.S. 194, 201-02 (2001).

The Court finds that the specific contours of plaintiff's liberty interest were not clear at the time the Central Pump contract was terminated, and therefore finds that defendant Irons is entitled to qualified immunity on plaintiff's procedural due process claim. The Court GRANTS defendant Irons judgment as a matter of law on that claim. The Court reserves judgment on the remainder of defendants' motion. (Document 327.)

**IT IS SO ORDERED.**

Dated: September 28, 2010



SUSAN ILLSTON  
United States District Judge